

***United States Court of Appeals
for the Second Circuit***



**APPELLANT'S
BRIEF &
APPENDIX**

77-6014

UNITED STATES COURT OF APPEALS

for the

SECOND CIRCUIT

Foley Square
New York, N. Y. 10007

B

PETER COLLASO, ET AL.,

Plaintiffs-Appellants

CIVIL APPEAL
SCHEDULING ORDER # 1

vs.

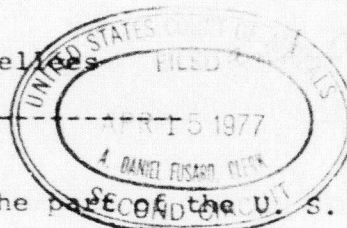
Docket No. 77-6014

DEPARTMENT OF HEALTH, EDUCATION

B R I E F

& WELFARE

Defendants-Appellees



(I) The negligence on the part of the U. S. Government caused great anguish, fear, mental sufferings, family quarrels, agonies to my family and myself, nervousness and insecurity due to constant family quarrels. Also, these stop payments, delays, on the part of the Government has ruined my good credit rating which is an American necessity of life.

(II) There has been discrimination by the U. S. Government by not giving my children the financial aid to dependent children and other benefits given to American children; discrimination in securing legal counsel to fight the U. S. Governemtn and discrimination in my jobs.

(III) The U. S. Government and its divisions has also ruined my future and has commiteed character assassination by its investigation of the Appellant.

(IV) Therefore, the Defendants-Appellees are obliged to pay \$200,000 damages, plus court cost, all tax free due to the above.

Yours, etc.

Peter T. Collaso
Peter T. Collaso

New York, New York

PAGINATION AS IN ORIGINAL COPY

UNITED STATES COURT OF APPEALS

for the
SECOND CIRCUIT

Foley Square
New York, New York 10007

PETER COLLASO, ET AL.,

Plaintiffs-Appellants

vs.

DEPARTMENT OF HEALTH, EDUCATION
& WELFARE

Defendants-Appellees

CIVIL APPEAL
SCHEDULING ORDER #1

Docket No. 77-6014

APPENDIX

- (I) Memorandum letter of January 15, 1976
- (II) All the papers of record on appeal.

Yours, etc.

Peter T. Collaso

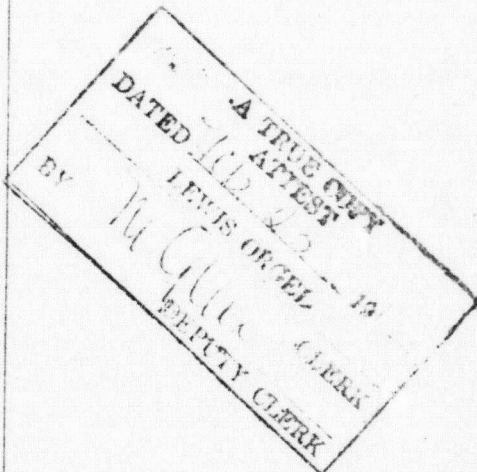
Peter T. Collaso

New York, New York

50 11530

PETER COLLASO, ET AL VS. DEPT OF HEALTH, ED AND WEL
PROCEEDINGS

DATE	NR.	
7/18/75		Complaint filed. Summons issued.
7-23-75		Summons ref and filed/executed. Receipt nos. 575120/575121. (1)
9-22-75		ANSWER filed. (2)
9-29-75		Notice of motion to set a day for trial filed. (ret 11-21-75). (3)
11/21/75		Before COSTANTINO, J. - Case called - pl'tff's motion to collect \$200,000 damages plus Court costs, etc. adj'd to 1-23-76. (4)
1-9-76		Before COSTANTINO, J. - Case called & adj'd to 1-23-76 at 10 A.M. (5/6)
1-12-76		Notice of motion and memorandum of law for judgment on the pleadings dismissing the complaint, ret 1-23-76 at 10 A.M. (5/6)
1-15-76		Memorandum filed. (mt) (7)
1-15-76		Letter dtd 1-12-76 to J. Costantino from Carl I. Stewart filed. (8)
1-23-76		Before COSTANTINO, J. - Pltff's motion to collect \$200,000 damages plus Court costs, submitted by pl'tff. Decision reserved. Govt's motion for judgment on the pleadings submitted. Decision reserved. (9)
4-21-76		By COSTANTINO, J. - Memo and order granting defts motion for judgment on the pleadings filed. (9)
4-22-76		Judgment that the plaintiff's take nothing of the defendant and that the action is dismissed filed. (10)
5-14-76		Notice of appeal filed. Copy mailed to C of A. (11)
7-29-76		Certified copy of order from C of A dismissing the appeal filed. (12)
1-28-77		Civil appeal scheduling order #1 filed. (3-1-77) (13)



73C

63

PETER T. COLLASO, et al

Mr. Inaeger - as Hear
 US District Attorney
 10 596-5700
 DEPT HEALTH, EDUCATION
 AND WELFARE.

FILINGS - PROCEEDINGS

AMOUNT
REPORTED IN
EMOLUMENT
RETURNS

1-12-73	Complaint filed. Summons issued.		
1-17-73	Summons returned & filed/executed	1	J35
3-13-73	By COSTANTINO, J. - Order dtd 3-12-73 extending time of deft HEW to answer to 5-14-73 filed.	2	
5-13-73	Affidavit of Carl T. Stewart filed.	3	
6-25-73	Clerk's note of default filed on document #4.	4	
6-73	Pltff's request for a default judgment filed.	--	
8-73	Notice of motion (deft's) ret 8-7-73 to dismiss complaint filed.	5	
9-7-73	Before COSTANTINO, J. - Case called & adj'd to 9-14-73.	6	
10-73	Order for dismissal of U.S. Government motion filed by plaintiff		
10-73	Judge Costantino, J. dismissed the U.S. Government motion		
10-73	Plaintiff request a day in court for collection of damages		
10-73	Judge Costantino, J. dismissed Plaintiff action due to no followed tort claim		
	at 28 USC § 2671 et seq		

Write Dept HEW

Set a day in court for collection

Write Dept HEW to remind them of 6 month period

Write Dept HEW letter

Plaintiff requested a day in court for collection of damages

Write Honorable Judge Costantino letter referring to his decision

3/18/74

74C1560

Complaint filed, Summons issued

rept Dept HEW

Defendant request dismissed of plaintiff action 11/1/74

Plaintiff Default action entered

Standard Form 95 mailed

Case dismissed

Instructions

rept Dept HEW

BEST COPY AVAILABLE

CASE 75C-1153

Complaint Filed

Collection of Damages ret 11/1/75 Summons ret & filed executed

11/1/75

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
PETER T. COLASSO, et al.,

75-C-1153

Plaintiffs,

v.

MEMORANDUM and
ORDER

DEPARTMENT OF HEALTH, EDUCATION
AND WELFARE, UNITED STATES
GOVERNMENT,

APR 21 1976

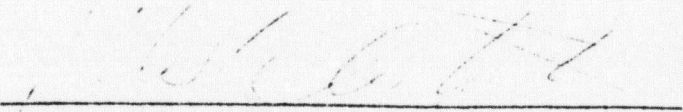
Defendant.

-----X
COSTANTINO, D.J.

This is an action brought under the Federal Tort Claims Act for damages resulting from delays and the stopping of Social Security benefits between December 1965 and September 1968. Defendant moves for judgment on the pleadings.

Tort claims against the United States accruing prior to January 18, 1967, are barred unless an action is begun within two years after the accrual of such claims. 28 U.S.C. § 2401(b). No District Court action was begun in this matter until November 1, 1974. Thus, insofar as plaintiffs are alleging causes of action accruing prior to January 18, 1967, their claims are time barred.

A tort claim against the United States accruing on or after January 18, 1967 is barred unless it was presented in writing to the appropriate Federal agency within two years after such claim accrued. 28 U.S.C. § 2401(b). A claim is deemed presented when the Department of Health, Education and Welfare receives an executed Standard Form 95 or other written notification of an incident accompanied by a claim for money damages in a sum certain for damage to or loss of property, or for personal injury alleged to have occurred by reason of the incident, 45 CFR § 35.2. Here, plaintiffs' papers show that no written claim for a sum certain was made until January 21, 1971 when Peter Collaso sent a letter to Mr. Myron Renick of the Department of Health, Education and Welfare. Insofar as plaintiffs are alleging causes of action accruing between January 18, 1967 and September, 1968, these actions are also barred by plaintiffs' failure to make a claim within the two year period allowed by statute. Defendant's motion for judgment on the pleadings is granted. So ordered.



U. S. D. J.

CLOSED

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

PETER T. COLASSO, et al.,

Plaintiffs, ★

- against -

DEPARTMENT OF HEALTH, EDUCATION
AND WELFARE, UNITED STATES
GOVERNMENT,

Defendant.

FILED
IN CLERK'S OFFICE
S. DISTRICT COURT E.D. N.Y.

APR 22 1976 ★

JUDGMENT

TIME AM.....

PM

75 C 1153

M'FILMED

M'FILMED

A memorandum and order of the Honorable
Marc A. Costantino, United States District Judge, having been
filed on April 21, 1976, granting defendant's motion for judgment
on the pleadings, it is

ORDERED and ADJUDGED that plaintiffs' take
nothing of the defendant and that the action is dismissed.

Dated: Brooklyn, New York
April 22, 1976

Lewis Orgel
Clerk

#10